

PAUL HAM, Bar No. 227395  
HAM LAW FIRM  
50 California Street, Suite 1500  
San Francisco, CA 94111  
Telephone: (415) 713-5690  
Facsimile: (866) 374-9773  
E-Mail: paul.ham@hamfirm.com

Attorney for Defendant David Salma

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

In Re:

DAVID SALMA,

Debtor,

Chapter 7

Adversary Proceeding No. 09-03126

Case No. 09-30863

DEFENDANT DAVID SALMA'S MOTION IN  
LIMINE

LEW JENKINS and LINDA M. JENKINS, as  
Trustees of the Jenkins Trust U/A/D 1/15/98 and  
JACK H. FRESKOS, beneficiary of IRA 042640  
at Westamerica,

Plaintiffs,

v.

DAVID SALMA, MARION ZABORSKI,  
FATON BINAKU, RUBEN PICARDO,  
SEATTLE BLOCK, and DOES 1-10,

Defendants.

William Dunlap's testimony at trial should be excluded pursuant to Fed. R. Civ. P. Rule 37(c)(1) because Plaintiffs never disclosed Mr. Dunlap as an expert in violation of Fed. R. Civ. P. Rule 26(a)(2)(A). To the extent Mr. Dunlap's appraisal report is construed as an expert report, the report fails to disclose the six categories of information as required under Fed. R. Civ. P. Rule 26(a)(2)(B)(i) through (vi). Moreover, the appraisal report was not contemporaneously produced at the time of Mr. Dunlap's disclosure as a witness as required under Fed. R. Civ. P. Rule 26(a)(2)(B), notwithstanding the

1 fact that he was never disclosed as an expert witness. Mr. Dunlap has no timely or material information  
2 as a fact witness because all of his observations of the Subject Property are in April of 2008, more than  
3 two years after the Loan from Plaintiffs to Defendant was made. For the foregoing reasons, Mr.  
4 Dunlap's testimony should be excluded from trial.

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6 Respectfully submitted this 27<sup>th</sup> day of August, 2010.

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8 /s/ - Paul Ham  
9 PAUL HAM, Bar No. 227395  
10 HAM LAW FIRM  
11 1300 Clay Street, Suite 600  
12 Oakland, CA 94612  
13 Telephone: (415) 713-5690  
14 Facsimile: (866) 374-9773  
15 E-Mail: paul.ham@hamfirm.com

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17 Attorney for Defendant David Salma  
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